

REMARKS

The present response is filed together with a Request for Continued Examination ("RCE"). The present remarks are responsive to the Final Office Action mailed March 19, 2008 and the Notice of Panel Decision from Pre-Appeal Brief Review mailed June 8, 2009. The remarks are submitted for the purposes of bringing matters more clearly to the attention of the Examiner and with the hope of avoiding the necessity of moving forward with the appeal. Claims 30, 32, 34-36, 41, 42, and 60-64 are pending in this application. All claims remain rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,289,314 to Matsuzaki *et al.* ("*Matsuzaki*") in view of U.S. Patent No. 6,839,851 to Saitoh *et al.* ("*Saitoh*"). Applicant requests that the Examiner reconsider in view of the remarks and amendments contained herein. Applicant respectfully submits that the application is in condition for allowance.

Amendment to the Claims

As set forth in the amendment to the claims above, Applicants amend independent claims 30, 41, 61 and 63. Support for the amendment to the claims may be found throughout the present application's specification, abstract drawings and claims, including, for example, Figures 3-9 and corresponding portions of the specification. The Applicants submit that no new matter has been added by way of the amendment to the claims.

Rejection - 35 U.S.C. §103

The Examiner maintains the rejection under 35 U.S.C. §103(a) based on the assertion that the combination of *Matsuzaki* and *Saitoh* discloses, teaches and/or suggests the claimed combination of elements of the previously-presented claims 30, 32, 34-36, 41, 42, and 60-64. While it is believed that such rejection fails for the reasons set forth in Applicants' Pre-Appeal Brief, Applicants have nonetheless amended the independent claims to more clearly claim Applicants' invention for the sole purpose of expediting prosecution.

In light of such amendment, Applicants submit that each of the claims 30, 32, 34-36, 41, 42, and 60-64 is patentable over the combination of *Matsuzaki* and *Saitoh*. For example, Applicants submit that *Matsuzaki* discloses that the discount information stored on the discount information storage portion 254 is used for all of the contents received by the server 2 and played on the terminals 3. See *Matsuzaki*, at Figure 7 and accompanying text at col. 15, l. 16 to col. 18, l. 16. In other words, Applicants submit that *Matsuzaki* fails to disclose that the discount information stored on the discount information storage portion 254 can change with each content received by the server 2.

Unlike *Matsuzaki*, the amended independent claim 30 is an information processing method that includes a combination of claimed elements directed to controlling an amount of discount for each content by multiplexing the discount charge data with the content data if the charge for the content data decreases with the number of times the content data is used. More specifically, the amended independent claim 30 now recites:

"An information processing method, comprising:

obtaining content data to be broadcast by digital broadcast transmission, the content data including at least one of video content data or audio content data;

generating discount charge data specifying a charge for use of the content data, the use including at least one of reproducing or copying the content data;

inserting the discount charge data into a control message if the charge decreases with a number of times the content data is used;

multiplexing the content data with the control message by a first information processing apparatus to produce multiplexed data and transmitting the multiplexed data via the digital broadcast transmission;

receiving and demultiplexing the multiplexed data by a second information processing apparatus to receive the control message and the content data;

recording the received content data onto a recording medium by the second information processing apparatus;

using the recorded content data at the second information processing apparatus; and

charging for the use of the content data at the second information processing apparatus, wherein, if the received control message includes the discount charge data, then the charge decreases with the number of times the content data is used, and wherein, if the received control message does not include the discount charge data, then the charge does not decrease with the number of times the content data is used (emphasis added).

Applicants submit that, unlike the amended independent claim 30, neither *Matsuzaki* nor *Saitoh* disclose, teach or suggest the claimed elements directed to including the discount charge data within the multiplexed data upon a condition that the discount charge data specifies that the charge for the content data decreases with the number of times the content data is used. Applicants respectfully wish to remind the Examiner that the failure of an asserted combination to teach or suggest each and every feature of a claim remains fatal to an obviousness rejection under 35 U.S.C. §103. See *Ex Parte Wada and Murphy*, BPAI Appeal No. 2007-3733, at p. 8. (January 14, 2008). Given the foregoing, Applicants submit that the combination of *Matsuzaki* and *Saitoh* fails to render amended independent claim 30 obvious, and as such, the amended independent claim 30 and its dependent claims are in condition for allowance.

Moreover, Applicants submits that the allowable subject matter of amended independent claim 30 may be compared with the remaining amended independent claims 41, 61 and 63. For the reasons previously discussed, the combination of *Matsuzaki* and *Saitoh* fails to render these independent claims and their dependent claims. Thus, all of the present claims are believed to be distinguishable from the cited references. Accordingly, it is respectfully submitted that the rejection should be withdrawn. Claims 30, 32, 34-36, 41, 42, and 60-64 (as amended or previously presented) claim novel and non-obvious subject matter and should be allowed.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he telephone Applicant's Attorney at (908) 654-5000 in order to overcome any additional objections which he might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,
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